

ASSEMBLY BILL

No. 1236

Introduced by Assembly Member Battin

February 26, 1999

An act to amend Sections 25189.5, 25189.6, and 25189.7 of the Health and Safety Code, to amend Sections 237, 289, 666.5, 666.7, 667.70, 674, 803, 1170.11, 1192.8, 1203.049, and 12280 of, and to repeal Section 667.72 of, the Penal Code, and to amend Section 23558 of the Vehicle Code, relating to maintenance of criminal provisions, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1236, as introduced, Battin. Maintenance of criminal provisions.

(1) Existing law, as amended by initiative statute, makes it a felony or a misdemeanor for any person to knowingly dispose, transport, burn, incinerate, cause to be disposed, transported, burned, or incinerated, treat, or store any hazardous waste, or who reasonably should have known that he or she was disposing, transporting, burning, or incinerating, any hazardous waste, at a facility that does not have a specified permit, or at any unauthorized point. If that act caused great bodily injury or a substantial probability that death could result, the person may be punished by imprisonment in the state prison for up to 36 months. The initiative statute provides that any amendment of its provisions by the Legislature shall require a $\frac{2}{3}$ vote of the membership of each house.

This bill would provide that the person shall be punished by an additional term of imprisonment in the state prison for one, 2, or 3 years under these circumstances. The bill would make other technical, nonsubstantive changes to these provisions. Because it would amend an initiative statute, the bill would require a $\frac{2}{3}$ vote.

(2) Existing law lists and categorizes, for reference purposes only, all sentence enhancements by schedules based on the length of the term of imprisonment imposed by each sentence enhancement. Existing law declares the intent of the Legislature to amend this provision as necessary to accurately reflect current sentence enhancement provisions.

This bill would update this provision to include new sentence enhancement provisions and delete obsolete provisions.

(3) Existing law provides that a habitual child molester, as defined, shall be punished by 25 years in the state prison.

This bill would delete this provision.

(4) This bill would make technical changes that conform to and consolidate other provisions of law, delete language that is duplicative of other provisions of law, and correct cross-references to other provisions of law.

(5) The bill would provide that certain of its provisions shall not take effect until July 1, 1999, if this bill is enacted and becomes operative prior to that date.

(6) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25189.5 of the Health and Safety
2 Code is amended to read:
3 25189.5. (a) The disposal of any hazardous waste, or
4 the causing thereof, is prohibited when the disposal is at
5 a facility which does not have a permit from the
6 department issued pursuant to this chapter, or at any
7 point which is not authorized according to this chapter.

1 (b) Any person who is convicted of knowingly
2 disposing or causing the disposal of any hazardous waste,
3 or who reasonably should have known that he or she was
4 disposing or causing the disposal of any hazardous waste,
5 at a facility which does not have a permit from the
6 department issued pursuant to this chapter, or at any
7 point which is not authorized according to this chapter
8 shall, upon conviction, be punished by imprisonment in
9 ~~the a~~ county jail for not more than one year or by
10 imprisonment in the state prison ~~for 16, 24, or 36 months~~.

11 (c) Any person who knowingly transports or causes
12 the transportation of hazardous waste, or who reasonably
13 should have known that he or she was causing the
14 transportation of any hazardous waste, to a facility which
15 does not have a permit from the department issued
16 pursuant to this chapter, or at any point which is not
17 authorized according to this chapter, shall, upon
18 conviction, be punished by imprisonment in ~~the a~~ county
19 jail for not more than one year or by imprisonment in the
20 state prison ~~for 16, 24, or 36 months~~.

21 (d) Any person who knowingly treats or stores any
22 hazardous waste at a facility which does not have a permit
23 from the department issued pursuant to this chapter, or
24 at any point which is not authorized according to this
25 chapter, shall, upon conviction, be punished by
26 imprisonment in ~~the a~~ county jail for not more than one
27 year or by imprisonment in the state prison ~~for 16, 24, or~~
28 ~~36 months~~.

29 (e) The court *also* shall ~~also~~ impose upon a person
30 convicted of violating subdivision (b), (c), or (d), a fine
31 of not less than five thousand dollars (\$5,000) ~~or~~ *nor* more
32 than one hundred thousand dollars (\$100,000) for each
33 day of violation, except as further provided in this
34 subdivision. If the act which violated subdivision (b), (c),
35 or (d) caused great bodily injury, or caused a substantial
36 probability that death could result, the person convicted
37 of violating subdivision (b), (c), or (d) ~~may~~ *shall* be
38 punished by imprisonment in the state prison ~~for up to 36~~
39 ~~months~~ *one, two, or three years*, in addition *and*
40 *consecutive* to the term specified in subdivision (b), (c),

1 or (d), and may be fined up to two hundred fifty thousand
2 dollars (\$250,000) for each day of violation.

3 (f) For purposes of this section, except as otherwise
4 provided in this subdivision, “each day of violation”
5 means each day on which a violation continues. In any
6 case where a person has disposed or caused the disposal
7 of any hazardous waste in violation of this section, each
8 day that the waste remains disposed of in violation of this
9 section and the person has knowledge thereof is a
10 separate additional violation, unless the person has filed
11 a report of the disposal with the department and is
12 complying with any order concerning the disposal issued
13 by the department, a hearing officer, or court of
14 competent jurisdiction.

15 SEC. 2. Section 25189.6 of the Health and Safety Code
16 is amended to read:

17 25189.6. (a) Any person who knowingly, or with
18 reckless disregard for the risk, treats, handles, transports,
19 disposes, or stores any hazardous waste in a manner which
20 causes any unreasonable risk of fire, explosion, serious
21 injury, or death is guilty of a public offense and shall, upon
22 conviction, be punished by a fine of not less than five
23 thousand dollars (\$5,000) ~~or~~ *nor* more than two hundred
24 fifty thousand dollars (\$250,000) for each day of violation,
25 or by imprisonment in ~~the~~ *a* county jail for not more than
26 one year, or by imprisonment in the state prison ~~for 16, 24,~~
27 ~~or 36 months,~~ or by both the fine and imprisonment.

28 (b) Any person who knowingly, at the time the person
29 takes the actions specified in subdivision (a), places
30 another person in imminent danger of death or serious
31 bodily injury, is guilty of a public offense and shall, upon
32 conviction, be punished by a fine of not less than five
33 thousand dollars (\$5,000) ~~or~~ *nor* more than two hundred
34 fifty thousand dollars (\$250,000) for each day of violation,
35 and by imprisonment in the state prison for 3, 6, or 9 years.

36 SEC. 3. Section 25189.7 of the Health and Safety Code
37 is amended to read:

38 25189.7. (a) The burning or incineration of any
39 hazardous waste, or the causing thereof, is prohibited
40 when the burning or incineration is at a facility which

1 does not have a permit from the department issued
2 pursuant to this chapter, or at any point which is not
3 authorized according to this chapter.

4 (b) Any person who is convicted of knowingly burning
5 or incinerating, or causing the burning or incineration of,
6 any hazardous waste, or who reasonably should have
7 known that he or she was burning or incinerating, or
8 causing the burning or incineration of, any hazardous
9 waste, at a facility which does not have a permit from the
10 department issued pursuant to this chapter, or at any
11 point which is not authorized according to this chapter,
12 shall, upon conviction, be punished by imprisonment in
13 ~~the a~~ county jail for not more than one year or by
14 imprisonment in the state prison ~~for 16, 24, or 36 months~~.

15 (c) The court *also* shall ~~also~~ impose upon a person
16 convicted of violating subdivision (b) a fine of not less
17 than five thousand dollars (\$5,000) nor more than one
18 hundred thousand dollars (\$100,000) for each day of
19 violation, except as otherwise provided in this
20 subdivision. If the act which violated subdivision (b)
21 caused great bodily injury or caused a substantial
22 probability that death could result, the person convicted
23 of violating subdivision (b) ~~may~~ *shall* be punished by
24 imprisonment in the state prison ~~for up to 36 months~~ *one,*
25 *two, or three years,* in addition *and consecutive* to the
26 term specified in subdivision (b), and may be fined up to
27 two hundred fifty thousand dollars (\$250,000) for each
28 day of violation.

29 SEC. 4. Section 237 of the Penal Code is amended to
30 read:

31 237. (a) False imprisonment is punishable by a fine
32 not exceeding one thousand dollars (\$1,000), or by
33 imprisonment in the county jail for not more than one
34 year, or by both that fine and imprisonment. If the false
35 imprisonment be effected by violence, menace, fraud, or
36 deceit, it shall be punishable by imprisonment in the state
37 prison.

38 (b) False imprisonment of an elder or dependent
39 adult by use of violence, menace, fraud, or deceit shall be

1 punishable as described in subdivision ~~(e)~~ (f) of Section
2 368.

3 SEC. 5. Section 289 of the Penal Code is amended to
4 read:

5 289. (a) (1) ~~Every person who causes the~~
6 ~~penetration, however slight, of the genital or anal~~
7 ~~openings of any person or causes another person to so~~
8 ~~penetrate the defendant's or another person's genital or~~
9 ~~anal openings for the purpose of sexual arousal,~~
10 ~~gratification, or abuse by any foreign object, substance,~~
11 ~~instrument, or device, or by any unknown object~~ Any
12 *person who commits an act of sexual penetration* when
13 the act is accomplished against the victim's will by means
14 of force, violence, duress, menace, or fear of immediate
15 and unlawful bodily injury on the victim or another
16 person shall be punished by imprisonment in the state
17 prison for three, six, or eight years.

18 (2) ~~Every person who causes the penetration,~~
19 ~~however slight, of the genital or anal openings of any~~
20 ~~person or causes another person to so penetrate the~~
21 ~~defendant's or another person's genital or anal openings~~
22 ~~for the purpose of sexual arousal, gratification, or abuse by~~
23 ~~any foreign object, substance, instrument, or device, or by~~
24 ~~any unknown object where~~ Any *person who commits an*
25 *act of sexual penetration* when the act is accomplished
26 against the victim's will by threatening to retaliate in the
27 future against the victim or any other person, and there
28 is a reasonable possibility that the perpetrator will
29 execute the threat, shall be punished by imprisonment in
30 the state prison for three, six, or eight years.

31 (b) Except as provided in subdivision (c), ~~every~~
32 ~~person who causes the penetration, however slight, of the~~
33 ~~genital or anal openings of any person or causes another~~
34 ~~person to so penetrate the defendant's or another~~
35 ~~person's genital or anal openings for the purpose of sexual~~
36 ~~arousal, gratification, or abuse by any foreign object,~~
37 ~~substance, instrument, or device, or by any unknown~~
38 ~~object~~ any *person who commits an act of sexual*
39 *penetration*, and the victim is at the time incapable,
40 because of a mental disorder or developmental or

1 physical disability, of giving legal consent, and this is
2 known or reasonably should be known to the person
3 committing the act or causing the act to be committed,
4 shall be punished by imprisonment in the state prison for
5 three, six, or eight years. Notwithstanding the
6 appointment of a conservator with respect to the victim
7 pursuant to the provisions of the Lanterman-Petris-Short
8 Act (Part 1 (commencing with Section 5000) of Division
9 5 of the Welfare and Institutions Code), the prosecuting
10 attorney shall prove, as an element of the crime, that a
11 mental disorder or developmental or physical disability
12 rendered the alleged victim incapable of giving legal
13 consent.

14 ~~(c) Every person who causes the penetration,~~
15 ~~however slight, of the genital or anal openings of any~~
16 ~~person or causes another person to so penetrate the~~
17 ~~defendant's or another person's genital or anal openings~~
18 ~~for the purpose of sexual arousal, gratification, or abuse by~~
19 ~~any foreign object, substance, instrument, or device, or by~~
20 ~~any unknown object~~ *Any person who commits an act of*
21 *sexual penetration,* and the victim is at the time
22 incapable, because of a mental disorder or developmental
23 or physical disability, of giving legal consent, and this is
24 known or reasonably should be known to the person
25 committing the act or causing the act to be committed
26 and both the defendant and the victim are at the time
27 confined in a state hospital for the care and treatment of
28 the mentally disordered or in any other public or private
29 facility for the care and treatment of the mentally
30 disordered approved by a county mental health director,
31 shall be punished by imprisonment in the state prison, or
32 in a county jail for a period of not more than one year.
33 Notwithstanding the existence of a conservatorship
34 pursuant to the provisions of the Lanterman-Petris-Short
35 Act (Part 1 (commencing with Section 5000) of Division
36 5 of the Welfare and Institutions Code), the prosecuting
37 attorney shall prove, as an element of the crime, that a
38 mental disorder or developmental or physical disability
39 rendered the alleged victim incapable of giving legal
40 consent.

1 ~~(d) Every person who causes the penetration,~~
2 ~~however slight, of the genital or anal openings of any~~
3 ~~person or causes another person to so penetrate the~~
4 ~~defendant's or another person's genital or anal openings~~
5 ~~for the purpose of sexual arousal, gratification, or abuse by~~
6 ~~any foreign object, substance, instrument, or device, or by~~
7 ~~any unknown object.~~ *Any person who commits an act of*
8 *sexual penetration,* and the victim is at the time
9 unconscious of the nature of the act and this is known to
10 the person committing the act or causing the act to be
11 committed, shall be punished by imprisonment in the
12 state prison for three, six, or eight years. As used in this
13 subdivision, "unconscious of the nature of the act" means
14 incapable of resisting because the victim meets one of the
15 following conditions:

16 (1) Was unconscious or asleep.

17 (2) Was not aware, knowing, perceiving, or cognizant
18 that the act occurred.

19 (3) Was not aware, knowing, perceiving, or cognizant
20 of the essential characteristics of the act due to the
21 perpetrator's fraud in fact.

22 ~~(e) Every person who causes the penetration,~~
23 ~~however slight, of the genital or anal openings of any~~
24 ~~person or causes another person to so penetrate the~~
25 ~~defendant's or another person's genital or anal openings~~
26 ~~for the purpose of sexual arousal, gratification, or abuse by~~
27 ~~any foreign object, substance, instrument, or device, or by~~
28 ~~any unknown object, where~~ *Any person who commits an*
29 *act of sexual penetration when* the victim is prevented
30 from resisting by any intoxicating or anesthetic
31 substance, or any controlled substance, and this condition
32 was known, or reasonably should have been known by the
33 accused, shall be punished by imprisonment in the state
34 prison for a period of three, six, or eight years.

35 ~~(f) Every person who causes the penetration, however~~
36 ~~slight, of the genital or anal openings of any person or~~
37 ~~causes another person to so penetrate the defendant's or~~
38 ~~another person's genital or anal openings for the purpose~~
39 ~~of sexual arousal, gratification, or abuse by any foreign~~
40 ~~object, substance, instrument, or device, or by any~~

~~unknown object, where~~ Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) ~~Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object, where~~ Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration ~~of genital or anal openings with a foreign object, substance, instrument, or device, or by any unknown object of a~~ with another person who is under 18 years of age ~~or causes another person under 18 years of age to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse,~~ shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sexual penetration ~~of the genital or anal openings with a foreign~~

~~1 object, substance, instrument, or device, or by any
2 unknown object of with another person who is under 16
3 years of age or causes another person under 16 years of
4 age to so penetrate the defendant's or another person's
5 genital or anal openings for the purpose of sexual arousal,
6 gratification, or abuse, shall be guilty of a felony.~~

(j) Any person who participates in an act of *sexual penetration of the genital or anal openings with a foreign object, instrument, or device, or by any unknown object of with another person who is under 14 years of age and who is more than 10 years younger than he or she or causes another person who is under 14 years of age and who is more than 10 years younger than the defendant to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse,* shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) *"Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal openings of any person or causing another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.*

(2) "Foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

~~(2)~~

(3) "Unknown object" shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(l) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital

1 or anal openings of the defendant or another person or
2 whose genital or anal openings are caused to be
3 penetrated by the defendant or another person and who
4 otherwise qualifies as a victim under the requirements of
5 this section.

6 SEC. 6. Section 666.5 of the Penal Code is amended to
7 read:

8 666.5. (a) Every person who, having been previously
9 convicted of a felony violation of Section 10851 of the
10 Vehicle Code, or felony grand theft involving an
11 automobile, ~~a motor vehicle, as defined in Section 415 of~~
12 ~~the Vehicle Code, any trailer, as defined in Section 630 of~~
13 ~~the Vehicle Code, any special construction equipment, as~~
14 ~~defined in Section 565 of the Vehicle Code, or any vessel,~~
15 ~~as defined in Section 21 of the Harbors and Navigation~~
16 ~~Code in violation of former subdivision (d) of Section 487,~~
17 ~~or former subdivision (3) of Section 487, as that section~~
18 ~~read prior to being amended by Section 4 of Chapter 1125~~
19 ~~of the Statutes of 1993, or felony grand theft involving a~~
20 ~~motor vehicle, as defined in Section 415 of the Vehicle~~
21 ~~Code, any trailer, as defined in Section 630 of the Vehicle~~
22 ~~Code, any special construction equipment, as defined in~~
23 ~~Section 565 of the Vehicle Code, or any vessel, as defined~~
24 ~~in Section 21 of the Harbors and Navigation Code in~~
25 ~~violation of former Section 487h, or of a felony violation~~
26 ~~of Section 496d of the Penal Code~~ regardless of whether
27 or not the person actually served a prior prison term for
28 those offenses, is subsequently convicted of any of these
29 offenses shall be punished by imprisonment in the state
30 prison for two, three, or four years, or a fine of ten
31 thousand dollars (\$10,000), or both the fine and the
32 imprisonment.

33 (b) For the purposes of this section, the terms “special
34 construction equipment” and “vessel” are limited to
35 motorized vehicles and vessels.

36 (c) The existence of any fact which would bring a
37 person under subdivision (a) shall be alleged in the
38 information or indictment and either admitted by the
39 defendant in open court, or found to be true by the jury
40 trying the issue of guilt or by the court where guilt is

1 established by plea of guilty or nolo contendere or by trial
2 by the court sitting without a jury.

3 SEC. 7. Section 666.7 of the Penal Code is amended to
4 read:

5 666.7. It is the intent of the Legislature that this
6 section serve merely as a nonsubstantive comparative
7 reference of current sentence enhancement provisions.
8 Nothing in this section shall have any substantive effect
9 on the application of any sentence enhancement
10 contained in any provision of law, including, but not
11 limited to, all of the following: omission of any sentence
12 enhancement provision, inclusion of any obsolete
13 sentence enhancement provision, or inaccurate
14 reference or summary of a sentence enhancement
15 provision.

16 It is the intent of the Legislature to amend this section
17 as necessary to accurately reflect current sentence
18 enhancement provisions, including the addition of new
19 provisions and the deletion of obsolete provisions.

20 For the purposes of this section, the term “sentence
21 enhancement” means an additional term of
22 imprisonment in the state prison added to the base term
23 for the underlying offense. A sentence enhancement is
24 imposed because of the nature of the offense at the time
25 the offense was committed or because the defendant
26 suffered a qualifying prior conviction before committing
27 the current offense.

28 (a) The provisions listed in this subdivision imposing
29 a sentence enhancement of one year imprisonment in the
30 state prison may be referenced as Schedule A.

31 (1) Money laundering when the value of transactions
32 exceeds fifty thousand dollars (\$50,000), but is less than
33 one hundred fifty thousand dollars (\$150,000) (subpara.
34 (A), para. (1), subd. (c), Sec. 186.10, Pen. C.).

35 (2) Commission of two or more related felonies, a
36 material element of which is fraud or embezzlement,
37 which involve a pattern of related felony conduct,
38 involving the taking of more than one hundred thousand
39 dollars (\$100,000) (para. (3), subd. (a), Sec. 186.11, Pen.
40 C.).



(3) Felony conviction of willful harm or injury to a child, involving female genital mutilation (Sec. 273.4, Pen. C.).

(4) Prior conviction of felony hate crime with a current conviction of felony hate crime (subd. (e), Sec. 422.75, Pen. C.).

(5) Harming, obstructing, or interfering with any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties and, with the intent to so harm, obstruct, or interfere, personally causing the death, destruction, or serious physical injury of any horse or dog (subd. (c), Sec. 600, Pen. C.).

(6) Prior prison term with current felony conviction (subd. (b), Sec. 667.5, Pen. C.).

(7) Commission of any specified offense against a person who is 65 years of age or older, blind, a paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec. 667.9, Pen. C.).

(8) Showing child pornography to a minor prior to or during the commission or attempted commission of any lewd or lascivious act with the minor (subd. (a), Sec. 667.15, Pen. C.).

(9) Felony conviction of forgery, grand theft, or false pretenses as part of plan or scheme to defraud an owner in connection with repairs to a structure damaged by a natural disaster (Sec. 667.16, Pen. C.).

(10) *Impersonating a peace officer during the commission of a felony* (Sec. 667.17, Pen. C.).

(11) Felony conviction of any specified offense, including, but not limited to, forgery, grand theft, and false pretenses, as part of plan or scheme to defraud an owner in connection with repairs to a structure damaged by natural disaster with prior felony conviction of any of those offenses (Sec. 670, Pen. C.).

~~(11)~~

(12) Commission or attempted commission of a felony while armed with a firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).

~~(12)~~

1 (13) Personally using a deadly or dangerous weapon in
2 the commission or attempted commission of a felony
3 (para. (1), subd. (b), Sec. 12022, Pen. C.).

4 ~~(13)~~

5 (14) Taking, damaging, or destroying any property in
6 the commission or attempted commission of a felony with
7 the intent to cause that taking, damage, or destruction
8 when the loss exceeds fifty thousand dollars (\$50,000)
9 (para. (1), subd. (a), Sec. 12022.6, Pen. C.).

10 ~~(14)~~

11 (15) Transferring, lending, selling, or giving any
12 assault weapon to a minor (para. (2), subd. (a), Sec. 12280,
13 Pen. C.).

14 ~~(15)~~

15 (16) Manufacturing, causing to be manufactured,
16 distributing, transporting, importing, keeping for sale,
17 offering or exposing for sale, giving, or lending any assault
18 weapon while committing another crime (subd. (c), Sec.
19 12280, Pen. C.).

20 ~~(16)~~

21 (17) Inducing, employing, or using a minor to commit
22 a drug offense involving heroin, cocaine, or cocaine base,
23 or unlawfully furnishing one of these controlled
24 substances to a minor, upon the grounds of, or within, a
25 church, playground, youth center, child day care facility,
26 or public swimming pool during business hours or
27 whenever minors are using the facility (para. (1), subd.
28 (a), Sec. 11353.1, H.& S.C.).

29 ~~(17)~~

30 (18) Inducing another person to commit a drug
31 offense as part of the drug transaction for which the
32 defendant is convicted when the value of the controlled
33 substance involved exceeds five hundred thousand
34 dollars (\$500,000) (para. (1), subd. (a), Sec. 11356.5, H.&
35 S.C.).

36 ~~(18)~~

37 (19) Manufacturing, compounding, converting,
38 producing, deriving, processing, or preparing
39 methamphetamine or phencyclidine (PCP), or
40 attempting to commit any of those acts, or possessing

specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission or attempted commission of the offense causes the death or great bodily injury of another person other than an accomplice (Sec. 11379.9, H.& S.C.).

~~(19)~~

(20) Using a minor to commit a drug offense involving phencyclidine (PCP), methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing one of these controlled substances to a minor, *when the commission of the offense occurs* upon the grounds of, or within, a church, playground, youth center, child day care facility, or public swimming pool during business hours or whenever minors are using the facility (para. (1), subd. (a), Sec. 11380.1, H.& S.C.).

~~(20)~~

(21) *Possessing for sale, or selling, heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP), when the commission of the offense occurs upon the grounds of a public park, public library, or oceanfront beach (para. (1), subd. (a), Sec. 11380.5, H.& S.C.).*

(22) Causing bodily injury or death to more than one victim in any one instance of driving under the influence of any alcoholic beverage or drug (Sec. ~~23182~~ 23558, Veh. C.).

(23) *Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner; when the offense is committed by means of an electronic transfer of benefits in an amount exceeding fifty thousand dollars (\$50,000), but less than one hundred fifty thousand dollars (\$150,000) (subpara. (A), para. (1), subd. (h), Sec. 10980, W.& I.C.).*

(b) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or three years' imprisonment in the state prison may be referenced as Schedule B.

- 1 (1) Commission of a felony for the benefit of, at the
2 direction of, or in association with any criminal street
3 gang, with the specific intent to promote, further, or assist
4 in any criminal conduct by gang members (para. (1),
5 subd. (b), Sec. 186.22, Pen. C.).
- 6 (2) Commission or attempted commission of a felony
7 hate crime (subd. (a), Sec. 422.75, Pen. C.).
- 8 (3) Commission or attempted commission of a felony
9 against the property of a public or private institution
10 because the property is associated with a person or group
11 of identifiable race, color, religion, nationality, country of
12 origin, ancestry, gender, disability, or sexual orientation
13 (subd. (b), Sec. 422.75, Pen. C.).
- 14 (4) Felony conviction of unlawfully causing a fire of
15 any structure, forest land, or property when the
16 defendant has been previously convicted of arson or
17 unlawfully causing a fire, or when a firefighter, peace
18 officer, or emergency personnel suffered great bodily
19 injury, or when the defendant proximately caused great
20 bodily injury to more than one victim, or caused multiple
21 structures to burn (Sec. 452.1, Pen. C.).
- 22 (5) Carrying a loaded or unloaded firearm during the
23 commission or attempted commission of any felony street
24 gang crime (subd. (a), Sec. 12021.5, Pen. C.).
- 25 (6) Personally using a deadly or dangerous weapon in
26 the commission of carjacking or attempted carjacking
27 (para. (2), subd. (b), Sec. 12022, Pen. C.).
- 28 (7) Being a principal in the commission or attempted
29 commission of any specified drug offense, knowing that
30 another principal is personally armed with a firearm
31 (subd. (d), Sec. 12022, Pen. C.).
- 32 (8) Furnishing or offering to furnish a firearm to
33 another for the purpose of aiding, abetting, or enabling
34 that person or any other person to commit a felony (Sec.
35 12022.4, Pen. C.).
- 36 (9) Selling, supplying, delivering, or giving possession
37 or control of a firearm to any person within a prohibited
38 class or to a minor when the firearm is used in the
39 subsequent commission of a felony (para. (4), subd. (g),
40 Sec. 12072, Pen. C.).



(10) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, heroin, cocaine, and cocaine base, or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11353.1, H.& S.C.).

(11) Prior conviction of inducing, employing, or using a minor to commit a drug offense involving cocaine base, or unlawfully providing cocaine base to a minor that resulted in a prison sentence with a current conviction of the same offense (subd. (a), Sec. 11353.4, H.& S.C.).

(12) Prior conviction of inducing, employing, or using a minor to commit a drug offense involving cocaine base, or unlawfully providing cocaine base to a minor with a current conviction of the same offense involving a minor who is 14 years of age or younger (subd. (b), Sec. 11353.4, H.& S.C.).

(13) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, phencyclidine (PCP), methamphetamine, and lysergic acid diethylamide (LSD), or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11380.1, H.& S.C.).

(14) Causing great bodily injury or a substantial probability that death could result by the knowing disposal, transport, treatment, storage, burning, or incineration of any hazardous waste at a facility without permits or at an unauthorized point (subd. (e), Sec. 25189.5, and subd. (c), Sec. 25189.7, H.& S.C.).

(c) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or five years' imprisonment in the state prison may be referenced as Schedule C.

(1) Wearing a bullet-resistant body vest in the commission or attempted commission of a violent offense (subd. (b), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while armed with a firearm or deadly weapon (subd. (b), Sec. 12022.3, Pen. C.).

(d) The provisions listed in this subdivision imposing a sentence enhancement of two years' imprisonment in the state prison may be referenced as Schedule D.

(1) Money laundering when the value of the transactions exceeds one hundred fifty thousand dollars (\$150,000), but is less than one million dollars (\$1,000,000) (subpara. (B), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, involving the taking of more than one hundred fifty thousand dollars (\$150,000) (para. (3), subd. (a), Sec. 186.11, Pen. C.).

(3) Conviction of any specified felony sex offense that is committed after fleeing to this state under specified circumstances (subd. (d), Sec. 289.5, Pen. C.).

(4) Prior conviction of any specified insurance fraud offense with current conviction of willfully injuring, destroying, secreting, abandoning, or disposing of any property insured against loss or damage by theft, embezzlement, or any casualty with the intent to defraud or prejudice the insurer (subd. (b), Sec. 548, Pen. C.).

(5) Prior conviction of any specified insurance fraud offense with current conviction of knowingly presenting any false or fraudulent insurance claim or multiple claims for the same loss or injury, or knowingly causing or participating in a vehicular collision for the purpose of presenting any false or fraudulent claim, or providing false or misleading information or concealing information for purpose of insurance fraud (subd. (e), Sec. 550, Pen. C.).

(6) *Causing serious bodily injury as a result of knowingly causing or participating in a vehicular collision or accident for the purpose of presenting any false or fraudulent claim (subd. (g), Sec. 550, Pen. C.).*

(7) Harming, obstructing, or interfering with any horse or dog being used by any peace officer in the

1 discharge or attempted discharge of his or her duties and,
2 with the intent to cause great bodily injury, personally
3 causing great bodily injury to any person other than an
4 accomplice (subd. (d), Sec. 600, Pen. C.).

5 ~~(7)~~

6 (8) Prior conviction of any specified offense with
7 current conviction of any of those offenses committed
8 against a person who is 65 years of age or older, blind, a
9 paraplegic or quadriplegic, or under 14 years of age
10 (subd. (b), Sec. 667.9, Pen. C.).

11 ~~(8)~~

12 (9) Prior conviction for penetration of genital or anal
13 openings by foreign or unknown object with current
14 conviction of the same offense committed against a
15 person who is 65 years of age or older, blind, deaf,
16 developmentally disabled, a paraplegic or quadriplegic,
17 or under 14 years of age (subd. (a), Sec. 667.10, Pen. C.).

18 ~~(9)~~

19 (10) Showing child pornography to minor prior to or
20 during the commission or attempted commission of
21 continuous sexual abuse of the minor (subd. (b), Sec.
22 667.15, Pen. C.).

23 ~~(10)~~

24 (11) Primary care provider in a day care facility
25 committing any specified felony sex offense against a
26 minor entrusted to his or her care (subd. (a), Sec. 674,
27 Pen. C.).

28 ~~(11)~~

29 (12) Commission of a felony offense while released
30 from custody on bail or own recognizance (subd. (b), Sec.
31 12022.1, Pen. C.).

32 ~~(12)~~

33 (13) Taking, damaging, or destroying any property in
34 the commission or attempted commission of a felony with
35 the intent to cause that taking, damage, or destruction
36 when the loss exceeds one hundred fifty thousand dollars
37 (\$150,000) (para. (2), subd. (a), Sec. 12022.6, Pen. C.).

38 ~~(13)~~

39 (14) Inducing, employing, or using a minor to commit
40 a drug offense involving heroin, cocaine, or cocaine base,

1 or unlawfully furnishing one of these controlled
2 substances to a minor, upon, or within 1,000 feet of, the
3 grounds of a school during school hours or whenever
4 minors are using the facility (para. (2), subd. (a), Sec.
5 11353.1, H.& S.C.).

6 ~~(14)~~

7 (15) Inducing another person to commit a drug
8 offense as part of the drug transaction for which the
9 defendant is convicted when the value of the controlled
10 substance involved exceeds two million dollars
11 (\$2,000,000) (para. (2), subd. (a), Sec. 11356.5, H.& S.C.).

12 ~~(15)~~

13 (16) Manufacturing, compounding, converting,
14 producing, deriving, processing, or preparing
15 methamphetamine or phencyclidine (PCP), or
16 attempting to commit any of those acts, or possessing
17 specified combinations of substances with the intent to
18 manufacture either methamphetamine or phencyclidine
19 (PCP), when the commission or attempted commission
20 of the crime occurs in a structure where any child under
21 16 years of age is present (subd. (a), Sec. 11379.7, H.&
22 S.C.).

23 ~~(16)~~

24 (17) Using a minor to commit a drug offense involving
25 phencyclidine (PCP), methamphetamine, or lysergic
26 acid diethylamide (LSD), or unlawfully furnishing one of
27 these controlled substances to a minor, upon, or within
28 1,000 feet of, the grounds of a school during school hours
29 or whenever minors are using the facility (para. (2), subd.
30 (a), Sec. 11380.1, H.& S.C.).

31 ~~(17)~~

32 (18) Prior felony conviction of any specified insurance
33 fraud offense with a current conviction of making false or
34 fraudulent statements concerning a workers'
35 compensation claim (subd. (c), Sec. 1871.4, Ins. C.).

36 ~~(18)~~

37 (19) Prior felony conviction of making or causing to be
38 made any knowingly false or fraudulent statement of any
39 fact material to the determination of the premium, rate,
40 or cost of any policy of workers' compensation insurance

for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11760, Ins. C.).

~~(19)~~

(20) Prior felony conviction of making or causing to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate, or cost of any policy of workers' compensation insurance issued or administered by the State Compensation Insurance Fund for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11880, Ins. C.).

(21) *Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner; when the offense is committed by means of an electronic transfer of benefits in an amount exceeding one hundred fifty thousand dollars (\$150,000), but less than one million dollars (\$1,000,000) (subpara. (B), para. (1), subd. (h), Sec. 10980, W.& I.C.).*

(e) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or four years' imprisonment in the state prison may be referenced as Schedule E.

(1) Commission of a felony for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and on the grounds of, or within 1,000 feet of, a school during school hours or when minors are using the facility (para. (2), subd. (b), Sec. 186.22, Pen. C.).

(2) Acting in concert with another person or aiding or abetting another person in committing or attempting to commit a felony hate crime (subd. (c), Sec. 422.75, Pen. C.).

(3) Carrying a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol

1 magazine, a detachable magazine, or a belt-feeding
2 device during the commission or attempted commission
3 of any felony street gang crime (subd. (b), Sec. 12021.5,
4 Pen. C.).

5 (f) The provisions listed in this subdivision imposing a
6 sentence enhancement of two, three, or five years'
7 imprisonment in the state prison may be referenced as
8 Schedule F.

9 (1) Commission of two or more related felonies, a
10 material element of which is fraud or embezzlement,
11 which involve a pattern of related felony conduct,
12 involving the taking of more than five hundred thousand
13 dollars (\$500,000) (para. (2), subd. (a), Sec. 186.11, Pen.
14 C.).

15 (g) The provisions listed in this subdivision imposing
16 a sentence enhancement of three years' imprisonment in
17 the state prison may be referenced as Schedule G.

18 (1) Money laundering when the value of transactions
19 exceeds one million dollars (\$1,000,000), but is less than
20 two million five hundred thousand dollars (\$2,500,000)
21 (subpara. (C), para. (1), subd. (c), Sec. 186.10, Pen. C.).

22 (2) Commission of a felony for the benefit of, at the
23 direction of, or in association with any criminal street
24 gang, with the specific intent to promote, further, or assist
25 in any criminal conduct by gang members, if also
26 convicted of a felony violation of witness or victim
27 intimidation involving a credible threat of violence or
28 death made to the witness or victim of a violent felony for
29 the purpose of preventing or dissuading the witness or
30 victim from attending or giving testimony at any trial for
31 a violent felony (para. (5), subd. (b), Sec. 186.22, Pen. C.).

32 (3) Willfully mingling any poison or harmful substance
33 which may cause death if ingested, or which causes the
34 infliction of great bodily injury on any person, with any
35 food, drink, medicine, or pharmaceutical product or
36 willfully placing such poison or harmful substance in any
37 spring, well, reservoir, or public water supply (subd. (a),
38 Sec. 347, Pen. C.).

39 (4) ~~Commission of elder abuse causing~~ Causing great
40 bodily injury ~~(para. by willfully causing or permitting any~~

1 *elder or dependent adult to suffer, or inflicting pain or*
2 *mental suffering upon, or endangering the health of, an*
3 *elder or dependent adult when the victim is under 70*
4 *years of age (subpara. (A), para. (2), subd.-(a) (b), Sec.*
5 *368, Pen. C.).*

6 (5) Maliciously driving or placing, in any tree, saw-log,
7 shingle-bolt, or other wood, any iron, steel, ceramic, or
8 other substance sufficiently hard to injure saws and
9 causing bodily injury to another person other than an
10 accomplice (subd. (b), Sec. 593a, Pen. C.).

11 (6) Prior prison term for violent felony with current
12 violent felony conviction (subd. (a), Sec. 667.5, Pen. C.).

13 ~~(7) Commission of any specified felony sex offense or~~
14 ~~kidnapping against a child, where the offense was~~
15 ~~committed as part of a ceremony, rite, or any similar~~
16 ~~observance (subd. (a), Sec. 667.83, Pen. C.).~~

17 ~~(8) Commission of any specified felony sex offense by~~
18 ~~a primary care provider in a day care facility against a~~
19 ~~minor entrusted to his or her care while voluntarily acting~~
20 ~~in concert with another (subd. (b), Sec. 674, Pen. C.).~~

21 ~~(9)~~

22 (8) Commission or attempted commission of a felony
23 while armed with an assault weapon or a machinegun
24 (para. (2), subd. (a), Sec. 12022, Pen. C.).

25 ~~(10)~~

26 (9) Taking, damaging, or destroying any property in
27 the commission or attempted commission of a felony with
28 the intent to cause that taking, damage, or destruction
29 when the loss exceeds one million dollars (\$1,000,000)
30 (para. (3), subd. (a), Sec. 12022.6, Pen. C.).

31 ~~(11)~~

32 (10) Personally inflicting great bodily injury on any
33 person other than an accomplice in the commission or
34 attempted commission of a felony (subd. (a), Sec. 12022.7,
35 Pen. C.).

36 ~~(12)~~

37 (11) Administering by injection, inhalation, ingestion,
38 or any other means, any specified controlled substance
39 against the victim's will by means of force, violence, or
40 fear of immediate and unlawful bodily injury to the

1 victim or another person for the purpose of committing
2 a felony (Sec. 12022.75, Pen. C.).

3 ~~(13)~~

4 (12) Commission of any specified sex offense with
5 knowledge that the defendant has acquired immune
6 deficiency syndrome (AIDS) or with the knowledge that
7 he or she carries antibodies of the human
8 immunodeficiency virus at the time of the commission of
9 the offense (Sec. 12022.85, Pen. C.).

10 ~~(14)~~

11 (13) Inducing another person to commit a drug
12 offense as part of the drug transaction for which the
13 defendant is convicted when the value of the controlled
14 substance involved exceeds five million dollars
15 (\$5,000,000) (para. (3), subd. (a), Sec. 11356.5, H.& S.C.).

16 ~~(15)~~

17 (14) Prior conviction of any specified drug offense
18 with current conviction of any specified drug offense
19 (subds. (a), (b), and (c), Sec. 11370.2, H.& S.C.).

20 ~~(16)~~

21 (15) Commission of any specified drug offense
22 involving a substance containing heroin, cocaine base,
23 cocaine, methamphetamine, amphetamine, or
24 phencyclidine (PCP), when the substance exceeds one
25 kilogram or 30 liters (para. (1), subd. (a), and para. (1),
26 subd. (b), Sec. 11370.4, H.& S.C.).

27 ~~(17)~~

28 (16) Manufacturing, compounding, converting,
29 producing, deriving, processing, or preparing any
30 substance containing amphetamine, methamphetamine,
31 or phencyclidine (PCP) or its analogs or precursors, or
32 attempting to commit any of those acts, when the
33 substance exceeds three gallons or one pound (para. (1),
34 subd. (a), Sec. 11379.8, H.& S.C.).

35 ~~(18)~~

36 (17) Four or more prior convictions of specified
37 alcohol-related vehicle offenses with current conviction
38 of driving under the influence and causing great bodily
39 injury (subd. (c), Sec. 23190, Veh. C.).



1 (18) *Fraudulently appropriating food stamps,*
2 *electronically transferred benefits, or authorizations to*
3 *participate in the federal Food Stamp Program entrusted*
4 *to a public employee, or knowingly using, transferring,*
5 *selling, purchasing, or possessing, any of the same in an*
6 *unauthorized manner; when the offense is committed by*
7 *means of an electronic transfer of benefits in an amount*
8 *exceeding one million dollars (\$1,000,000), but less than*
9 *two million five hundred thousand dollars (\$2,500,000)*
10 *(subpara. (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).*

11 (h) The provisions listed in this subdivision imposing
12 a sentence enhancement of three, four, or five years'
13 imprisonment in the state prison may be referenced as
14 Schedule H.

15 (1) Commission of felony arson with prior conviction
16 of arson or unlawfully starting a fire, or causing great
17 bodily injury to a firefighter, peace officer, other
18 emergency personnel, or multiple victims, or causing the
19 burning of multiple structures, or using an accelerator or
20 ignition delay device (subd. (a), Sec. 451.1, Pen. C.).

21 (2) Commission or attempted commission of any
22 specified drug offense while personally armed with a
23 firearm (subd. (c), Sec. 12022, Pen. C.).

24 (3) Personally inflicting great bodily injury under
25 circumstances involving domestic violence in the
26 commission or attempted commission of a felony (subd.
27 (d), Sec. 12022.7, Pen. C.).

28 (4) Commission of any specified drug offense
29 involving cocaine base, heroin, or methamphetamine, or
30 a conspiracy to commit any of those offenses, upon the
31 grounds of, or within 1,000 feet of, a school during school
32 hours or when minors are using the facility (subd. (b),
33 Sec. 11353.6, H.& S.C.).

34 (5) Commission of any specified drug offense
35 involving cocaine base, heroin, or methamphetamine, or
36 a conspiracy to violate any of those offenses, involving a
37 minor who is at least four years younger than the
38 defendant (subd. (c), Sec. 11353.6, H.& S.C.).

(i) The provisions listed in this subdivision imposing a sentence enhancement of 3, 4, or 10 years' imprisonment in the state prison may be referenced as Schedule I.

(1) Commission or attempted commission of any felony while armed with a firearm and in the immediate possession of ammunition for the firearm designed primarily to penetrate metal or armor (subd. (a), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while using a firearm or deadly weapon (subd. (a), Sec. 12022.3, Pen. C.).

(3) Commission or attempted commission of a felony while personally using a firearm (para. (1), subd. (a), Sec. 12022.5, Pen. C.).

(4) Commission or attempted commission of any specified drug offense while personally using a firearm (subd. (c), Sec. 12022.5, Pen. C.).

(j) The provisions listed in this subdivision imposing a sentence enhancement of four years' imprisonment in the state prison may be referenced as Schedule J.

(1) Money laundering when the value of transactions exceeds two million five hundred thousand dollars (\$2,500,000) (subpara. (D), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Prior conviction of willfully inflicting upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition with current conviction of that offense (subd. (b), Sec. 273d, Pen. C.).

(3) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds two million five hundred thousand dollars (\$2,500,000) (para. (4), subd. (a), Sec. 12022.6, Pen. C.).

(4) Personally, willfully, and maliciously discharging a firearm from a motor vehicle at another person other than an occupant of a motor vehicle and causing a victim to suffer paralysis or paraparesis of a major body part (para. (1), subd. (b), Sec. 12022.9, Pen. C.).

1 (5) Personally, willfully, and maliciously discharging a
2 firearm from a motor vehicle at another occupied motor
3 vehicle and causing a victim to suffer paralysis or
4 paraparesis of a major body part (para. (2), subd. (b), Sec.
5 12022.9, Pen. C.).

6 (6) Willfully causing or permitting any child to suffer,
7 or inflicting on the child unjustifiable physical pain or
8 injury that results in death under circumstances or
9 conditions likely to produce great bodily harm or death,
10 or, having the care or custody of any child, willfully
11 causing or permitting that child to be injured or harmed
12 under circumstances likely to produce great bodily harm
13 or death, when that injury or harm results in death (Sec.
14 12022.95, Pen. C.).

15 (7) *Fraudulently appropriating food stamps,*
16 *electronically transferred benefits, or authorizations to*
17 *participate in the federal Food Stamp Program entrusted*
18 *to a public employee, or knowingly using, transferring,*
19 *selling, purchasing, or possessing, any of the same in an*
20 *unauthorized manner, when the offense is committed by*
21 *means of an electronic transfer of benefits in an amount*
22 *exceeding two million five hundred thousand dollars*
23 *(\$2,500,000) (subpara. (C), para. (1), subd. (h), Sec.*
24 *10980, W.& I.C.).*

25 (k) The provisions listed in this subdivision imposing
26 a sentence enhancement of 4, 5, or 10 years'
27 imprisonment in the state prison may be referenced as
28 Schedule K.

29 (1) Commission or attempted commission of a felony
30 while personally using a firearm with prior conviction of
31 carjacking or attempted carjacking (para. (2), subd. (a),
32 Sec. 12022.5, Pen. C.).

33 (l) The provisions listed in this subdivision imposing a
34 sentence enhancement of five years' imprisonment in the
35 state prison may be referenced as Schedule L.

36 (1) Using sex offender registration information to
37 commit a felony (subd. (q), Sec. 290, and para. (1), subd.
38 (b), Sec. 290.4, Pen. C.).

39 (2) ~~Commission of elder abuse causing~~ Causing great
40 bodily injury; *by willfully causing or permitting any elder*

1 *or dependent adult to suffer, or inflicting pain or mental*
2 *suffering upon, or endangering the health of, an elder or*
3 *dependent adult when the victim is 70 years of age or*
4 *older* ~~(para. (subpara. (B), para. (2), subd. (a) (b), Sec.~~
5 *368, Pen. C.).*

6 ~~(3) Commission of elder abuse causing death (para.~~
7 *Causing death by willfully causing or permitting any*
8 *elder or dependent adult to suffer, or inflicting pain or*
9 *mental suffering upon, or endangering the health of, an*
10 *elder or dependent adult when the victim is under 70*
11 *years of age (subpara. (A), para. (3), subd. (a) (b), Sec.*
12 *368, Pen. C.).*

13 ~~(4) Two prior felony convictions of knowingly causing~~
14 *or participating in a vehicular collision or accident for the*
15 *purpose of presenting any false or fraudulent claim with*
16 *current conviction of the same (subd. (f), Sec. 550, Pen.*
17 *C.).*

18 ~~(5) Prior conviction of a serious felony with current~~
19 *conviction of a serious felony (para. (1), subd. (a), Sec.*
20 *667, Pen. C.).*

21 ~~(5)~~

22 ~~(6) Prior conviction of any specified sex offense with~~
23 *current conviction of lewd and lascivious acts with a child*
24 *under 14 years of age (subd. (a), Sec. 667.51, Pen. C.).*

25 ~~(6)~~

26 ~~(7) Prior conviction of any specified sex offense with~~
27 *current conviction of any of those sex offenses (subd. (a),*
28 *Sec. 667.6, Pen. C.).*

29 ~~(7)~~

30 ~~(8) Kidnapping or carrying away any child under 14~~
31 *years of age with the intent to permanently deprive the*
32 *parent or legal guardian custody of that child (Sec. 667.85,*
33 *Pen. C.).*

34 ~~(8)~~

35 ~~(9) Personally inflicting great bodily injury on any~~
36 *person other than an accomplice in the commission or*
37 *attempted commission of a felony that causes the victim*
38 *to become comatose due to a brain injury or to suffer*
39 *paralysis of a permanent nature (subd. (b), Sec. 12022.7,*
40 *Pen. C.).*

~~(9)~~

(10) Personally inflicting great bodily injury on another person who is 70 years of age or older other than an accomplice in the commission or attempted commission of a felony (subd. (c), Sec. 12022.7, Pen. C.).

~~(10)~~

(11) Inflicting great bodily injury on any victim in the commission or attempted commission of any specified sex offense (Sec. 12022.8, Pen. C.).

~~(11)~~

(12) Personally and intentionally inflicting injury upon a pregnant woman during the commission or attempted commission of a felony that results in the termination of the pregnancy when the defendant knew or reasonably should have known that the victim was pregnant (subd. (a), Sec. 12022.9, Pen. C.).

~~(12)~~

(13) Using information disclosed to the licensee of a community care facility by a prospective client regarding his or her status as a sex offender to commit a felony (subd. (c), Sec. 1522.01, H.& S.C.).

~~(13)~~

(14) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 4 kilograms or 100 liters (para. (2), subd. (a), and para. (2), subd. (b), Sec. 11370.4, H.& S.C.).

~~(14)~~

(15) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission of the crime causes any child under 16 years of age to suffer great bodily injury (subd. (b), Sec. 11379.7, H.& S.C.).

~~(15)~~

1 (16) Manufacturing, compounding, converting,
2 producing, deriving, processing, or preparing any
3 substance containing amphetamine, methamphetamine,
4 or phencyclidine (PCP) or its analogs or precursors, or
5 attempting to commit any of those acts, when the
6 substance exceeds 10 gallons or three pounds (para. (2),
7 subd. (a), Sec. 11379.8, H.& S.C.).

8 ~~(16)~~

9 (17) Fleeing the scene of the crime after commission
10 of vehicular manslaughter (subd. (c), Sec. 20001, Veh.
11 C.).

12 (m) The provisions listed in this subdivision imposing
13 a sentence enhancement of 5, 6, or 10 years'
14 imprisonment in the state prison may be referenced as
15 Schedule M.

16 (1) Discharging a firearm at an occupied motor
17 vehicle in the commission or attempted commission of a
18 felony which caused great bodily injury or death to
19 another person (para. (1), subd. (b), Sec. 12022.5, Pen.
20 C.).

21 (2) Commission or attempted commission of a felony
22 while personally using an assault weapon or a
23 machinegun (para. (2), subd. (b), Sec. 12022.5, Pen. C.).

24 (3) Discharging a firearm from a motor vehicle in the
25 commission or attempted commission of a felony with the
26 intent to inflict great bodily injury or death and causing
27 great bodily injury or death (Sec. 12022.55, Pen. C.).

28 (n) The provisions listed in this subdivision imposing
29 a sentence enhancement of seven years' imprisonment in
30 the state prison may be referenced as Schedule N.

31 ~~(1) Commission of elder abuse causing death, Causing~~
32 ~~death by willfully causing or permitting any elder or~~
33 ~~dependent adult to suffer, or inflicting pain or mental~~
34 ~~suffering upon, or endangering the health of, an elder or~~
35 ~~dependent adult when the victim is 70 years of age or~~
36 ~~older (para. (subpara. (B), para. (3), subd. (a) (b), Sec.~~
37 ~~368, Pen. C.).~~

38 (o) The provisions listed in this subdivision imposing
39 a sentence enhancement of nine years' imprisonment in
40 the state prison may be referenced as Schedule O.



(1) Kidnapping victim for purpose of committing any specified felony sex offense (subd. (a), Sec. 667.8, Pen. C.).

(p) The provisions listed in this subdivision imposing a sentence enhancement of 10 years' imprisonment in the state prison may be referenced as Schedule P.

(1) Two or more prior prison terms for any specified sex offense with current conviction of any of those sex offenses (subd. (b), Sec. 667.6, Pen. C.).

(2) Commission or attempted commission of any specified felony offense while personally using a firearm (subd. (b), Sec. 12022.53, Pen. C.).

(3) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 10 kilograms or 200 liters (para. (3), subd. (a), and para. (3), subd. (b), Sec. 11370.4, H.& S.C.).

(4) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 25 gallons or 10 pounds (para. (3), subd. (a), Sec. 11379.8, H.& S.C.).

(q) The provisions listed in this subdivision imposing a sentence enhancement of 15 years' imprisonment in the state prison may be referenced as Schedule Q.

(1) Kidnapping victim under 14 years of age for purpose of committing any specified felony sex offense (subd. (b), Sec. 667.8, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 20 kilograms or 400 liters (para. (4), subd. (a), and para. (4), subd. (b), Sec. 11370.4, H.& S.C.).

(3) *Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine,*

1 *or phencyclidine (PCP) or its analogs or precursors, or*
2 *attempting to commit any of those acts, when the*
3 *substance exceeds 105 gallons or 44 pounds (para. (4),*
4 *subd. (a), Sec. 11379.8, H. & S.C.).*

5 (r) The provisions listed in this subdivision imposing a
6 sentence enhancement of 20 years' imprisonment in the
7 state prison may be referenced as Schedule R.

8 (1) Intentionally and personally discharging a firearm
9 in the commission or attempted commission of any
10 specified felony offense (subd. (c), Sec. 12022.53, Pen.
11 C.).

12 (2) Commission of any specified drug offense
13 involving a substance containing heroin, cocaine base, or
14 cocaine, when the substance exceeds 40 kilograms (para.
15 (5), subd. (a), Sec. 11370.4, H. & S.C.).

16 (s) The provisions listed in this subdivision imposing a
17 sentence enhancement of 25 years' imprisonment in the
18 state prison may be referenced as Schedule S.

19 (1) Commission of any specified drug offense
20 involving a substance containing heroin, cocaine base, or
21 cocaine, when the substance exceeds 80 kilograms (para.
22 (6), subd. (a), Sec. 11370.4, H. & S.C.).

23 (t) The provisions listed in this subdivision imposing a
24 sentence enhancement of 25 years to life imprisonment
25 in the state prison may be referenced as Schedule T.

26 (1) Intentionally and personally discharging a firearm
27 in the commission or attempted commission of any
28 specified felony offense and proximately causing great
29 bodily injury to any person other than an accomplice
30 (subd. (d), Sec. 12022.53, Pen. C.).

31 SEC. 8. Section 667.70 of the Penal Code is amended
32 to read:

33 667.70. Any person who is convicted of murder, *which*
34 *was committed prior to June 3, 1998,* and sentenced
35 pursuant to paragraph (1) of subdivision (a) of Section
36 667.7, shall be eligible only for credit pursuant to
37 subdivisions (a), (b), and (c) of Section 2931.

38 SEC. 9. Section 667.72 of the Penal Code is repealed.

39 ~~667.72. (a) For the purpose of this section, a habitual~~
40 ~~child molester is a person who has previously served at~~

1 ~~least one prison term for a violation of subdivision (c) of~~
2 ~~Section 286, subdivision (b) of Section 288, or subdivision~~
3 ~~(c) of Section 288a who, for the purpose of committing~~
4 ~~that sexual offense, kidnapped the victim, who was under~~
5 ~~the age of 14 at the time of the offense, in violation of~~
6 ~~Section 207, and is convicted in the present proceeding of~~
7 ~~the same offense against at least two separate victims.~~

8 ~~(b) Except as specified in subdivision (c), a habitual~~
9 ~~child molester shall be punished by 25 years in the state~~
10 ~~prison. Article 2.5 (commencing with Section 2930) of~~
11 ~~Chapter 7 of Title 1 of Part 3 shall apply to reduce the~~
12 ~~prison term imposed by this subdivision. However, no~~
13 ~~habitual child molester sentenced under this subdivision~~
14 ~~may be released on parole until he or she has been~~
15 ~~incarcerated for at least 20 years.~~

16 ~~(c) At the request of the prosecutor and in lieu of the~~
17 ~~punishment specified in subdivision (b), the court shall~~
18 ~~instead order the defendant be punished according to~~
19 ~~Sections 1170.1 and 667.6, or according to Section 667.7 or~~
20 ~~667.71, if applicable.~~

21 ~~(d) For the purpose of this section, prosecutorial~~
22 ~~jurisdiction is authorized in any county wherein at least~~
23 ~~one of the underlying offenses occurred.~~

24 ~~(e) This section shall only apply if the defendant's~~
25 ~~status as a habitual child molester is alleged in the~~
26 ~~information, and either admitted by the defendant in~~
27 ~~open court, or found to be true by the jury trying the issue~~
28 ~~of guilt or by the court where guilt is established by a plea~~
29 ~~of guilty or nolo contendere or by trial by court sitting~~
30 ~~without a jury.~~

31 SEC. 10. Section 674 of the Penal Code is amended to
32 read:

33 674. (a) Any person who is a primary care provider
34 in a day care facility and who is convicted of a felony
35 violation of Section 261, 285, 286, 288, 288a, or 289, where
36 the victim of the crime was a minor entrusted to his or her
37 care by the minor's parent or guardian, a court, any public
38 agency charged with the provision of social services, or a
39 probation department, ~~may~~ *shall* be punished by an
40 additional term of two years.

(b) If the crime described in subdivision (a) was committed while voluntarily acting in concert with another, the person so convicted ~~may~~ *shall* be punished by an additional term of three years.

(c) The enhancements authorized by this section ~~may~~ *shall* be imposed in addition to any other required or authorized enhancement.

SEC. 11. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until the discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation, the commission of the crimes of theft or embezzlement upon an elder or dependent adult, or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or Section 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) Felony insurance fraud in violation of Section 548 or 550 of this code or former Section 1871.1, or Section 1871.4, of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) A violation of Section 529a.

(11) A violation of subdivision ~~(e)~~ (d) or (e) of Section 368.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of, the Health and Safety Code, or under Section 386.

(f) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a “responsible adult” or “agency” means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The defendant has committed at least one violation of Section 261, 286, 288, 288a, 288.5, 289, or 289.5

1 against the same victim within the limitation period
2 specified for that crime in either Section 800 or 801.

3 (3) (A) This subdivision applies to a cause of action
4 arising before, on, or after January 1, 1990, the effective
5 date of this subdivision, and it shall revive any cause of
6 action barred by Section 800 or 801 if any of the following
7 occurred or occurs:

8 (i) The complaint or indictment was filed on or before
9 January 1, 1997, and it was filed within the time period
10 specified in this subdivision.

11 (ii) The complaint or indictment is or was filed
12 subsequent to January 1, 1997, and it is or was filed within
13 the time period specified within this subdivision.

14 (iii) The victim made the report required by this
15 subdivision to a responsible adult or agency after January
16 1, 1990, and a complaint or indictment was not filed
17 within the time period specified in this subdivision, but a
18 complaint or indictment is filed no later than 180 days
19 after the date on which either a published opinion of the
20 California Supreme Court, deciding whether retroactive
21 application of this section is constitutional, becomes final
22 or the United States Supreme Court files an opinion
23 deciding the question of whether retroactive application
24 of this subdivision is constitutional, whichever occurs first.

25 (iv) The victim made the report required by this
26 subdivision to a responsible adult or agency after January
27 1, 1990, and a complaint or indictment was filed within the
28 time period specified in this subdivision, but the
29 indictment, complaint, or subsequently filed information
30 was dismissed, but a new complaint or indictment is or
31 was filed no later than 180 days after the date on which
32 either a published opinion of the California Supreme
33 Court, deciding whether retroactive application of this
34 section is constitutional, becomes final or the United
35 States Supreme Court files an opinion deciding the
36 question of whether retroactive application of this
37 subdivision is constitutional, whichever occurs first.

38 (B) (i) If the victim made the report required by this
39 subdivision to a responsible adult or agency after January
40 1, 1990, and a complaint or indictment was filed within the



1 time period specified in this subdivision, but the
2 indictment, complaint, or subsequently filed information
3 was dismissed, a new complaint or indictment may be
4 filed notwithstanding any other provision of law,
5 including, but not limited to, subdivision (c) of Section
6 871.5 and subdivision (b) of Section 1238.

7 (ii) An order dismissing an action filed under this
8 subdivision, which is entered or becomes effective at any
9 time prior to 180 days after the date on which either a
10 published opinion of the California Supreme Court,
11 deciding the question of whether retroactive application
12 of this section is constitutional, becomes final or the
13 United States Supreme Court files an opinion deciding
14 the question of whether retroactive application of this
15 subdivision is constitutional, whichever occurs first, shall
16 not be considered an order terminating an action within
17 the meaning of Section 1387.

18 (iii) Any ruling regarding the retroactivity of this
19 subdivision or its constitutionality made in the course of
20 the previous proceeding, including any review
21 proceeding, shall not be binding upon refiling.

22 (g) (1) Notwithstanding any other limitation of time
23 described in this chapter, a criminal complaint may be
24 filed within one year of the date of a report to a California
25 law enforcement agency by a person of any age alleging
26 that he or she, while under the age of 18 years, was the
27 victim of a crime described in Section 261, 286, 288, 288a,
28 288.5, 289, or 289.5.

29 (2) This subdivision applies only if both of the
30 following occur:

31 (A) The limitation period specified in Section 800 or
32 801 has expired.

33 (B) The crime involved substantial sexual conduct, as
34 described in subdivision (b) of Section 1203.066,
35 excluding masturbation that is not mutual, and there is
36 independent evidence that clearly and convincingly
37 corroborates the victim's allegation. No evidence may be
38 used to corroborate the victim's allegation that otherwise
39 would be inadmissible during trial. Independent

1 evidence does not include the opinions of mental health
2 professionals.

3 (3) (A) This subdivision applies to a cause of action
4 arising before, on, or after January 1, 1994, the effective
5 date of this subdivision, and it shall revive any cause of
6 action barred by Section 800 or 801 if any of the following
7 occurred or occurs:

8 (i) The complaint or indictment was filed on or before
9 January 1, 1997, and it was filed within the time period
10 specified in this subdivision.

11 (ii) The complaint or indictment is or was filed
12 subsequent to January 1, 1997, and it is or was filed within
13 the time period specified within this subdivision.

14 (iii) The victim made the report required by this
15 subdivision to a law enforcement agency after January 1,
16 1994, and a complaint or indictment was not filed within
17 the time period specified in this subdivision, but a
18 complaint or indictment is filed no later than 180 days
19 after the date on which either a published opinion of the
20 California Supreme Court, deciding the question of
21 whether retroactive application of this subdivision is
22 constitutional, becomes final or the United States
23 Supreme Court files an opinion deciding the question of
24 whether retroactive application of this subdivision is
25 constitutional, whichever occurs first.

26 (iv) The victim made the report required by this
27 subdivision to a law enforcement agency after January 1,
28 1994, and a complaint or indictment was filed within the
29 time period specified in this subdivision, but the
30 indictment, complaint, or subsequently filed information
31 was dismissed, but a new complaint or indictment is filed
32 no later than 180 days after the date on which either a
33 published opinion of the California Supreme Court,
34 deciding the question of whether retroactive application
35 of this subdivision is constitutional, becomes final or the
36 United States Supreme Court files an opinion deciding
37 the question of whether retroactive application of this
38 subdivision is constitutional, whichever occurs first.

39 (B) (i) If the victim made the report required by this
40 subdivision to a law enforcement agency after January 1,

1 1994, and a complaint or indictment was filed within the
2 time period specified in this subdivision, but the
3 indictment, complaint, or subsequently filed information
4 was dismissed, a new complaint or indictment may be
5 filed notwithstanding any other provision of law,
6 including, but not limited to, subdivision (c) of Section
7 871.5 and subdivision (b) of Section 1238.

8 (ii) An order dismissing an action filed under this
9 subdivision, which is entered or becomes effective at any
10 time prior to 180 days after the date on which either a
11 published opinion of the California Supreme Court,
12 deciding the question of whether retroactive application
13 of this section is constitutional, becomes final or the
14 United States Supreme Court files an opinion deciding
15 the question of whether retroactive application of this
16 subdivision is constitutional, whichever occurs first, shall
17 not be considered an order terminating an action within
18 the meaning of Section 1387.

19 (iii) Any ruling regarding the retroactivity of this
20 subdivision or its constitutionality made in the course of
21 the previous proceeding, by any trial court or any
22 intermediate appellate court, shall not be binding upon
23 refiling.

24 SEC. 12. Section 1170.11 of the Penal Code is
25 amended to read:

26 1170.11. As used in Section 1170.1, the term “specific
27 enhancement” includes, but is not limited to, the
28 enhancements provided in Sections 186.10, 186.11, 186.22,
29 273.4, 289.5, 290, 290.4, 347, and 368, subdivisions (a), (b),
30 and (c) of Section 422.75, paragraphs (2), (3), (4), and (5)
31 of subdivision (a) of Section 451.1, paragraphs (2), (3),
32 and (4) of subdivision (a) of Section 452.1, subdivision (g)
33 of Section 550, Sections 593a, 600, 667.8, ~~667.83~~, 667.85,
34 667.9, 667.10, 667.15, 667.16, 667.17, 674, 12021.5, 12022,
35 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55,
36 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9,
37 12022.95, 12072, and 12280 of this code, and in Sections
38 1522.01 and 11353.1, subdivision (b) of Section 11353.4,
39 Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8,
40 11379.9, ~~and~~ 11380.1, *11380.5, 25189.5, and 25189.7* of the

1 Health and Safety Code, and in Sections 20001 and ~~23182~~
2 23558 of the Vehicle Code, *and in Section 10980 of the*
3 *Welfare and Institutions Code.*

4 SEC. 13. Section 1192.8 of the Penal Code is amended
5 to read:

6 1192.8. (a) For purposes of subdivision (c) of Section
7 1192.7, “serious felony” also means any violation of
8 Section 191.5, paragraph (1) or (3) of subdivision (c) of
9 Section 192, paragraph (a) or (c) of Section 192.5 of this
10 code, or Section 2800.3, subdivision (b) of Section 23104,
11 or Section 23153 of the Vehicle Code, when any of these
12 offenses involve the personal infliction of great bodily
13 injury on any person other than an accomplice, or the
14 personal use of a dangerous or deadly weapon, within the
15 meaning of paragraph (8) or (23) of subdivision (c) of
16 Section 1192.7.

17 (b) It is the intent of the Legislature, in enacting
18 subdivision ~~(b)~~ (a), to codify the court decisions of *People*
19 *v. Gonzales*, 29 Cal. App. 4th 1684, and *People v. Bow*, 13
20 Cal. App. 4th 1551, and to clarify that the crimes specified
21 in subdivision ~~(b)~~ (a) have always been, and continue to
22 be, serious felonies within the meaning of subdivision (c)
23 of Section 1192.7.

24 SEC. 14. Section 1203.049 of the Penal Code is
25 amended to read:

26 1203.049. (a) Except in unusual cases where the
27 interest of justice would best be served if the person is
28 granted probation, probation shall not be granted to any
29 person who violates subdivision (f) or (g) of Section 10980
30 of the Welfare and Institutions Code, when the violation
31 has been committed by means of the electronic transfer
32 of food stamp benefits, and the amount of the
33 electronically transferred food stamp benefits exceeds
34 one hundred thousand dollars (\$100,000).

35 (b) The fact that the violation was committed by
36 means of an electronic transfer of food stamp benefits and
37 the amount of the electronically transferred food stamp
38 benefits exceeds one hundred thousand dollars
39 (\$100,000) shall be alleged in the accusatory pleading,
40 and either admitted by the defendant in open court, or

1 found to be true by the jury trying the issue of guilt or by
2 the court where guilt is established by a plea of guilty or
3 nolo contendere or by trial by the court sitting without a
4 jury.

5 (c) If probation is granted, the court shall specify on
6 the record and shall enter on the minutes *the*
7 *circumstances* indicating that the interests of justice
8 would best be served by that disposition of the ~~case~~ *case*.

9 SEC. 15. Section 12280 of the Penal Code is amended
10 to read:

11 12280. (a) (1) Any person who, within this state,
12 manufactures or causes to be manufactured, distributes,
13 transports, or imports into the state, keeps for sale, or
14 offers or exposes for sale, or who gives or lends any assault
15 weapon, except as provided by this chapter, is guilty of a
16 felony, and upon conviction shall be punished by
17 imprisonment in the state prison for four, six, or eight
18 years.

19 (2) In addition and consecutive to the punishment
20 imposed under paragraph (1), any person who transfers,
21 lends, sells, or gives any assault weapon to a minor in
22 violation of paragraph (1) shall receive an enhancement
23 of one year.

24 (b) Except as provided in Section 12288, any person
25 who, within this state, possesses any assault weapon,
26 except as provided in this chapter, is guilty of a public
27 offense and upon conviction shall be punished by
28 imprisonment in the state prison, or in a county jail, not
29 exceeding one year. However, if the person presents
30 proof that he or she lawfully possessed the assault weapon
31 prior to June 1, 1989, or prior to the date it was specified
32 as an assault weapon, and has since either registered the
33 firearm and any other lawfully obtained firearm subject
34 to this chapter pursuant to Section 12285 or relinquished
35 them pursuant to Section 12288, a first-time violation of
36 this subdivision shall be an infraction punishable by a fine
37 of up to five hundred dollars (\$500), but not less than
38 three hundred fifty dollars (\$350), if the person has
39 otherwise possessed the firearm in compliance with
40 subdivision (c) of Section 12285. In these cases, the

1 firearm shall be returned unless the court finds in the
2 interest of public safety, after notice and hearing, that the
3 assault weapon should be destroyed pursuant to Section
4 12028.

5 (c) Notwithstanding Section 654 or any other
6 provision of law, any person who commits another crime
7 while violating this section ~~may~~ *shall* receive an
8 additional, consecutive punishment of one year for
9 violating this section in addition and consecutive to the
10 punishment, including enhancements, which is
11 prescribed for the other crime.

12 (d) Subdivisions (a) and (b) shall not apply to the sale
13 to, purchase by, or possession of assault weapons by the
14 Department of Justice, police departments, sheriffs'
15 offices, marshals' offices, the Department of Corrections,
16 the Department of the California Highway Patrol, district
17 attorneys' offices, or the military or naval forces of this
18 state or of the United States for use in the discharge of
19 their official duties; nor shall anything in this chapter
20 prohibit the possession or use of assault weapons by sworn
21 members of these agencies when on duty and the use is
22 within the scope of their duties.

23 (e) Subdivision (b) shall not apply to the possession of
24 an assault weapon by any person during the 1990 calendar
25 year, or during the 90-day period immediately after the
26 date it was specified as an assault weapon, if all of the
27 following are applicable:

28 (1) The person is eligible under this chapter to register
29 the particular assault weapon.

30 (2) The person lawfully possessed the particular
31 assault weapon described in paragraph (1) prior to June
32 1, 1989, or prior to the date it was specified as an assault
33 weapon.

34 (3) The person is otherwise in compliance with this
35 chapter.

36 (f) Subdivisions (a) and (b) shall not apply to the
37 manufacture by persons who are issued permits pursuant
38 to Section 12287 of assault weapons for sale to the
39 following:

40 (1) Exempt entities listed in subdivision (d).

1 (2) Entities and persons who have been issued permits
2 pursuant to Section 12286.

3 (3) Entities outside the state who have, in effect, a
4 federal firearms dealer's license solely for the purpose of
5 distribution to an entity listed in paragraphs (4) to (6),
6 inclusive.

7 (4) Federal military and law enforcement agencies.

8 (5) Law enforcement and military agencies of other
9 states.

10 (6) Foreign governments and agencies approved by
11 the United States State Department.

12 (g) Subdivision (a) shall not apply to a person who is
13 the executor or administrator of an estate that includes an
14 assault weapon registered under Section 12285 which is
15 disposed of as authorized by the probate court, if the
16 disposition is otherwise permitted by this chapter.

17 (h) Subdivision (b) shall not apply to a person who is
18 the executor or administrator of an estate that includes an
19 assault weapon registered under Section 12285, if the
20 assault weapon is possessed at a place set forth in
21 paragraph (1) of subdivision (c) of Section 12285 or as
22 authorized by the probate court.

23 (i) Subdivision (a) shall not apply to:

24 (1) A person who lawfully possesses and has registered
25 an assault weapon pursuant to this chapter who lends that
26 assault weapon to another if all the following apply:

27 (A) The person to whom the assault weapon is lent is
28 18 years of age or over and is not in a class of persons
29 prohibited from possessing firearms by virtue of Section
30 12021 or 12021.1 of this code or Section 8100 or 8103 of the
31 Welfare and Institutions Code.

32 (B) The person to whom the assault weapon is lent
33 remains in the presence of the registered possessor of the
34 assault weapon.

35 (C) The assault weapon is possessed at any of the
36 following locations:

37 (i) While on a target range that holds a regulatory or
38 business license for the purpose of practicing shooting at
39 that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(j) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (i).

(k) Subdivisions (a) and (b) shall not apply to the possession and importation of an assault weapon into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon.

(2) The competition or match is conducted on the premises of one of the following:

(i) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by

1 virtue of Section 12021 or 12021.1 of this code or Section
2 8100 or 8103 of the Welfare and Institutions Code.

3 (I) As used in this chapter, the date a firearm is
4 “specified as an assault weapon” is the earliest of the
5 following:

6 (1) The effective date of an amendment to Section
7 12276 that adds the designation of the specified firearm.

8 (2) The effective date of the list promulgated pursuant
9 to Section 12276.5 that adds or changes the designation of
10 the specified firearm.

11 SEC. 16. Section 23558 of the Vehicle Code is
12 amended to read:

13 23558. Any person who proximately causes bodily
14 injury or death to more than one victim in any one
15 instance of driving in violation of Section 23153 of this
16 code or in violation of Section 191.5 of, or paragraph (3)
17 of subdivision (c) of Section 192 of, the Penal Code, shall,
18 upon a felony conviction, *and notwithstanding*
19 *subdivision (g) of Section 1170.1 of the Penal Code,*
20 receive an enhancement of one year in the state prison
21 for each additional injured victim. The enhanced
22 sentence provided for in this section shall not be imposed
23 unless the fact of the bodily injury to each additional
24 victim is charged in the accusatory pleading and
25 admitted or found to be true by the trier of fact. The
26 maximum number of one year enhancements which may
27 be imposed pursuant to this section is three.

28 Notwithstanding any other provision of law, the court
29 may strike the enhancements provided in this section if
30 it determines that there are circumstances in mitigation
31 of the additional punishment and states on the record its
32 reasons for striking the additional punishment.

33 SEC. 17. The amendments to Sections 25189.5 and
34 25189.7 of the Health and Safety Code, in Sections 1 and
35 3 of this act, respectively, and the amendments to
36 Sections 674 and 12280 of the Penal Code, in Sections 10
37 and 15 of this act, respectively, that change the word
38 “may” to “shall,” are not intended to alter the existing
39 authority and discretion of the court to strike those
40 enhancements or to strike the additional punishment for

1 those enhancements pursuant to Section 1385 of the
2 Penal Code.

3 SEC. 18. The amendments to Section 289 of the Penal
4 Code, in Section 5 of this act, that define “sexual
5 penetration” for purposes of that section and use that
6 phrase throughout the section to replace repetitive
7 language, are intended to be technical only and not to
8 make any substantive change to that section or any other
9 provision of law, including any provision that refers to the
10 offense specified in Section 289 of the Penal Code.

11 SEC. 19. In repealing Section 667.72 of the Penal
12 Code, in Section 9 of this act, the Legislature recognizes
13 that the conduct punished under that provision is now
14 subject to greater punishment under Section 667.71 of the
15 Penal Code. The repeal of Section 667.72 of the Penal
16 Code shall not be given any retroactive application, and
17 shall not be construed to benefit any person who
18 committed a crime or received a punishment while that
19 provision was in effect.

20 SEC. 20. The amendment of Section 23558 of the
21 Vehicle Code, in Section 16 of this act, is intended to be
22 declaratory of existing law.

23 SEC. 21. The amendments to Sections 666.7 and
24 1170.11 of the Penal Code, in Sections 7 and 12 of this act,
25 respectively, and to Section 23558 of the Vehicle Code, in
26 Section 16 of this act, shall not take effect until July 1, 1999,
27 if this bill is enacted and becomes operative prior to that
28 date.

29 SEC. 22. This act is an urgency statute necessary for
30 the immediate preservation of the public peace, health,
31 or safety within the meaning of Article IV of the
32 Constitution and shall go into immediate effect. The facts
33 constituting the necessity are:

34 In order to correct and conform certain criminal law
35 statutes at the earliest possible time so as to avoid
36 confusion regarding these provisions, it is necessary for
37 this act to take effect immediately.

